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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,528	08/29/2001	Philipp Lang	6750-0001 OP-001.00US	6548
36806	7590	04/20/2004	EXAMINER	
IMAGING THERAPEUTICS, INC. C/O ROBBINS & PASTERNAK 1731 EMBARCADERO ROAD SUITE 230 PALO ALTO, CA 94304-3303			THOMAS, COURTNEY D	
			ART UNIT	PAPER NUMBER
			2882	

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/942,528

Applicant(s)

LANG, PHILIPP

Examiner

Courtney Thomas

Art Unit

2882

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 April 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-4, 8-10 and 12-50.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


EDWARD J. GLICK
SUPERVISORY PATENT EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: Inga et al. (U.S. Patent 5,384,643) disclose a method comprising the steps of providing a digitized X-ray image on a local computer (abstract; column 6, lines 65-68, column 7, line 1); transmitting the X-ray image to a remote computer (abstract; column 7, lines 1-12) and analyzing the data at the remote computer. Secondary reference to Ohkubo (U.S. Patent 6,449,502 B1) has been applied to the teachings of Inga et al. to meet the new limitations as set by applicants' amendment. Ohkubo is particularly relevant in the handling of radiation images comprising bone, since it is taught that bone density information can be obtained from the images by noting attenuation differences. Ohbuko further teaches that analysis of radiation images and the determination of bone density assists in the identification of ailments such as osteoporosis and leads to the prevention of bone fracture due to early detection. With regards to claims 32-45 and 47, Chiabrera et al. (U.S. Patent 5,917,877) teach that a calibration phantom can comprise a wedge construction wherein differing heights represent varying thicknesses thereby allowing the distinct identification of wedge attenuating characteristics (column 3, lines 65 through column 4, line 3). Based on the teachings of the construction of the Chiabrera et al. phantom, Examiner concludes that it would have been obvious to modify the calibration phantom such that it incorporated a marker in a known density area of the phantom. One would have been motivated to make such a modification so that the marker serves as a positioning indicator for the phantom as well as an indicator for the attenuation attributes of the phantom at the indicated position .